

To the Members of the California State Senate:

I am returning Senate Bill 802 without my signature.

Under current law, public entities, at a minimum, must retain 5 percent of a payment to a contractor completing a public works project. This bill would restrict the State's ability to retain more than 5 percent of payment and no more than 5 percent of the public work contract price.

When a contractor fails to complete a public works project, the public entity needs recourse to ensure that the project gets completed. Public works contracts have a higher level of risk as public entities usually have to accept the low bidder. Though there are options available to the State to go after a contractor who fails to complete the terms of a public works contract, retaining portions of payment to the contractor provides incentive for the contractor to complete the project. While I am sympathetic with the concerns of subcontractors, the State's responsibility is to protect the taxpayer to make certain that public works projects are completed correctly and within budget; limiting the retention amount hampers the State's ability to do that.

For these reasons, I am returning this bill.

Sincerely,

Arnold Schwarzenegger